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April 18, 2022

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JUDGE JOHN G. KOELTL  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312  
[koeltlnysdchambers@nysd.uscourts.gov](mailto:koeltlnysdchambers@nysd.uscourts.gov)

Re: Castillo v. Pichardo 2230 Restaurant Corp. et al  
CASE #: 1:21-cv-08756-JGK

Your Honor,

Tonino Sacco\*  
Elias N. Fillas  
Luigi Brandimarte\*

Elizabeth A. Athenas  
Joseph Badalov  
James R. Baez\*  
Alexander Berger\*  
Boris Bernstein\*  
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\*Also admitted in New Jersey

This office represents Plaintiff in the above-captioned action. We submit this letter to respectfully an extension of time to submit the order to show cause for default judgment on the First Amended Complaint after it is served and Defendants default.

The first date to move for default judgment on the Original Complaint was March 21, 2022. On March 21, 2022, this Court extended Plaintiff's time to move for default judgment. ECF No. 41. On March 31, 2022, this Court granted Plaintiff's motion for leave to file and serve a First Amended Complaint. ECF No. 42-43.

On April 4, 2022, Plaintiff filed the First Amended Complaint, which has not yet been served. ECF No. 44.

Before service of the First Amended Complaint, This Court then ordered Plaintiff to move for default judgment by April 20, 2022. ECF No. 45.

Before Plaintiff can move for default judgment, Plaintiff must serve the First Amended Complaint. See Enron Oil Corp. v. Diakuhara, 10 F.3d 90, 93 (2d Cir. 1993) (default judgment on amended pleading would not be appropriate in the face of conflicting evidence as to whether that pleading was served on the defendant); O'Callaghan v. Sifre, 242 F.R.D. 69, 73 (S.D.N.Y. 2007) (for a plaintiff to be entitled to a default judgment on an amended pleading, there must be an adequate showing that the relevant amended pleading was duly served, under the relevant rules).

For the foregoing reasons, Plaintiff respectfully requests an extension of time to move for default judgment until after the First Amended Complaint is served and Defendants are in default.

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We thank the Court for the time and attention to this matter.

Very Truly Yours, etc.

By: /s/ Clifford Tucker  
Clifford Tucker, Esq.

*Plaintiff should serve the First Amended Complaint by April 29, 2022, and move by order to show cause for a default judgment (if appropriate) by May 20, 2022 so ordered. JUDGE KOELTL U.S.D.S. 4/19/22*